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Promotion and protection of human rights: implementation of human rights instruments

Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Report of the Secretary-General

Summary

The General Assembly, by its resolution 39/46, adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention entered into force on 26 June 1987. Further, the Assembly, by its resolution 57/199, adopted the Optional Protocol to the Convention, which entered into force on 22 June 2006.

The present report provides updated information on the implementation and status of the Convention, and on the membership for 2007 of the Committee against Torture and of its Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

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I. Introduction

1. The General Assembly, by its resolution 39/46, adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annex to that resolution, and called upon all Governments to consider signing and ratifying the Convention as a matter of priority.

2. The Convention was opened for signature in New York on 4 February 1985. In accordance with its article 27, the Convention entered into force on 26 June 1987, on the thirtieth day after the date of deposit with the Secretary-General of the twentieth instrument of ratification or accession.

3. The General Assembly, in its resolution 57/199, adopted the Optional Protocol to the Convention. The Protocol was opened for signature on 4 February 2003. In accordance with its article 28, the Protocol entered into force on 22 June 2006, on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

II. Implementation of the Convention

4. In its resolution 61/153, the General Assembly welcomed the work of the Committee against Torture and took note of its report[1] and recommended that the Committee continue to include information on the follow-up by States parties to its recommendations. The Assembly condemned in particular any action or attempt by States or public officials to legalize or authorize torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions. It further urged Governments to take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment; and stressed that all allegations of torture must be promptly and impartially examined and that the perpetrators must be held responsible and severely punished. The Assembly recalled that States should not expel, return ("refouler") or extradite a person to another State where there were substantial grounds for believing that the person would be in danger of being subjected to torture, and recognized that diplomatic assurances, where used, did not release States from their obligations under international human rights, humanitarian or refugee law, in particular the principle of non-refoulement. It further urged all States that had not yet done so to become parties to the Convention and called upon States to give early consideration to signing and ratifying its Optional Protocol; invited all States parties to the Convention that had not yet done so to make the declarations provided for in articles 21 and 22 of the Convention, to consider the possibility of withdrawing their reservations to article 20 and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible; urged States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invited States parties to incorporate a gender perspective and information concerning children, juveniles and persons with disabilities when submitting their reports to the Committee against Torture; called upon the United

[1] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 44* (A/61/44).

Nations High Commissioner for Human Rights, in conformity with her mandate established in Assembly resolution 48/141, to continue to provide, at the request of Governments, advisory services for the preparation of national reports to the Committee and for the prevention of torture, as well as technical assistance in the development, production and distribution of teaching material for that purpose; urged States parties to take fully into account the conclusions and recommendations made by the Committee after its consideration of their reports; and requested the Secretary-General to submit to the Human Rights Council (at its fifth session) and the Assembly at its sixty-second session a report on the status of the Convention.

III. Status of the Convention

5. As at 18 July 2007, the Convention had been ratified or acceded to by 144 States. In addition, 74 States had signed the Convention.[2]

6. Under article 21 of the Convention, a State party may at any time declare that it recognizes the competence of the Committee against Torture to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Convention. Under article 22, a State party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State party of the provisions of the Convention.

7. As at 18 July 2007, 51 of the States parties to the Convention had made the declarations provided for in articles 21 and 22 of the Convention. In addition, four States parties had made the declaration provided for in article 21 only, thus bringing the total number of declarations under that article to 55. Five States parties had made the declaration provided for in article 22 only, thus bringing the total of declarations under that article to 56.[3]

8. The provisions of articles 21 and 22 entered into force on 26 June 1987, in accordance with paragraph 2 of article 21 and paragraph 8 of article 22.

9. As at 18 July 2007, 34 States had ratified or acceded to the Optional Protocol to the Convention. In addition, 58 States had signed the Optional Protocol.

[2] For the list of States that have signed, ratified or acceded to the Convention, as well as the dates of their signature, ratification or accession, see www.ohchr.org or www.un.org.

[3] For the text of declarations and reservations, see www.ohchr.org or www.un.org.

IV. Membership of the Committee against Torture

10. The membership of the Committee for 2007 is as follows:

Member	*Term expires in December*
Essadia Belmir (Morocco)	2009
Guibril Camara (Senegal)	2007
Felice Gaer (United States of America)	2007
Luis Gallegos Chiriboga (Ecuador)	2007
Claudio Grossman (Chile)	2007
Alexander Kovalev (Russian Federation)	2009
Fernando Mariño Menendez (Spain)	2009
Andreas Mavrommatis (Cyprus)	2007
Nora Sveaass (Norway)	2009
Xuexian Wang (China)	2009

11. The Committee against Torture held its thirty-seventh and thirty-eighth sessions at the United Nations Office at Geneva from 6 to 24 November 2006 and from 30 April to 18 May 2007, respectively. In accordance with article 24 of the Convention, the Committee will submit its annual report, covering its activities at the sessions referred to above, to the States parties and to the General Assembly at its sixty-second session.

V. Membership of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture

12. The membership of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture for 2007 is as follows:

Member	*Term expires in December*
Silvia Casale (United Kingdom of Great Britain and Northern Ireland)	2008
Mario Coriolano (Argentina)	2008
Marija Definis Gojanovic (Croatia)	2010
Zdenek Hajek (Czech Republic)	2008

Member	*Term expires in December*
Zbigniew Lasocik (Poland)	2008
Hans Draminsky Petersen (Denmark)	2010
Victor Manuel Rodriguez Rescia (Costa Rica)	2008
Miguel Sarre Iguiniz (Mexico)	2010
Wilder Taylor Souto (Uruguay)	2010
Leopoldo Torres Boursault (Spain)	2010

13. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture held its first and second sessions at the United Nations Office at Geneva from 19 to 23 February 2007 and from 25 to 29 June 2007, respectively. Article 16, paragraph 3, of the Optional Protocol to the Convention requires the Subcommittee to present a public annual report to the Committee against Torture. This report has not yet been presented.